

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KITSAP COUNTY
CLERK

STATE OF WASHINGTON,

Plaintiff,

-vs-

GENNEY HEATH,

Defendant.

92 JUN 10 AM 10:44

NO. 92-1-00213-1-LENSTEIN

BY DEPUTY

JUDGMENT AND SENTENCE
(SENTENCING REFORM ACT)

FINDINGS OF FACT

1. On the 12 day of May, 1992, the defendant was found guilty by plea of the following:

OFFENSE, RCW CITATION AND CRIME CODE

OFFENSE DATE

Count I SECOND DEGREE THEFT (EMBEZZLEMENT) 9A.56.040 02556 12/12 - 31/91

2. A sentencing hearing in this case was held on the 10 day of June, 1992, at which the defendant and the following persons were present:

Defendant: GENNEY HEATH

Defendant's Lawyer: ROGER HUNKO

Deputy Prosecuting Attorney: WARREN K. SHARPE

Other:

3. Defendant was asked if there was any legal cause why judgment should not be pronounced and no legal cause was alleged.

4. The defendant's criminal history and prior convictions are:

☒ None known

☐ As follows:

OFFENSE/DATE

LOCATION/DISPOSITION/DATE

None are known to the State and defendant represents he/she does not have any felony convictions in Washington, nor any convictions in any other state or federal court which would amount to a felony in Washington.

and/or

☐ non first-offender, but no criminal history that would count under the SRA

JUDGMENT AND SENTENCE (SENTENCING REFORM ACT) -- 1

Rev. 11/4/91

or

/XX/ none of a nature which would deny the defendant first-time offender sentencing under RCW 9.94A.120(5) given the non-violent nature of the present offense (RCW 9.94A.030(18)).

5. Additional facts as to the nature of the offense(s) in this case are:

/XX/ as stipulated between the parties, said stipulation being part of the Plea Agreement previously filed in this cause; and/or

/ as stated in the attached appendix and are incorporated by reference into these Findings of Fact.

6. The maximum terms for the crime(s) for which the defendant was convicted are as follows:

Count I: FIVE (5) years and/or a \$10,000.00 fine

7. The presumptive sentencing range for the crime(s) for which the defendant was convicted is as follows:

Count I: 0 - 60 DAYS; (offender score 0; seriousness level I)

8. The Court makes the following findings as indicated:

/XX/ The defendant has served 0 days in confinement before sentencing and said confinement was solely in regard to the offense(s) for which the defendant is now being sentenced.

/XX/ The defendant, pursuant to RCW 9.94A.140(2), has agreed to pay restitution to victims of offenses not prosecuted as set forth in the Plea Agreement previously filed in this cause.

/ Findings of Fact and Conclusions of law setting forth reasons for the court's decision to sentence outside the presumptive range are as stated in the attached appendix and are incorporated by reference into these Findings of Fact.

/ Defendant is not a violent offender under RCW 9.94A.030(18) and, pursuant to RCW 9.94A.380, the court has considered and given priority to alternatives to total confinement and has decided, to the extent indicated in the Judgment and Sentence, to impose a sentence of total confinement. The reasons for not utilizing alternatives to total confinement, to the full extent possible, are as follows:

/ The crimes charged in Counts _____ and _____ encompass the same criminal conduct under RCW 9.94A.400(1)(a), and are counted as only one crime in determining criminal history.

☐ The defendant has been convicted of a drug offense under chapter 69.50 RCW and the court finds that the related drug offense is one associated with the use of hypodermic needles.

9. The Court having reviewed the Presentence Determination of Defendant's Financial Status Report, completed under oath and submitted by the defendant to this Court, and/or having considered the admissions of the defendant, finds the defendant is:

☐ Indigent and has no ability to pay at anytime.

☐ Indigent, but the indigency status is likely to change in the future and the defendant will have the future ability to pay.

☒ Not indigent and has the present and future ability to pay.

☐ The defendant has and/or will have the ability to make monthly payments towards the financial obligations imposed by this Judgment and Sentence as determined by defendant's own admission.

From the foregoing Findings of Fact the Court now makes the following:

CONCLUSIONS OF LAW

1. The court has jurisdiction over the parties and subject matter of this action.

2. The defendant is guilty of the crime(s) set forth in Finding of Fact 1.

3. That on the basis of said conviction(s) and the defendant's prior criminal history, the defendant is subject to the maximum term(s) set forth in Finding of Fact 6 and the presumptive sentence range(s) set forth in Finding of Fact 7.

4. The court also concludes as indicated:

☒ the defendant is a first-time offender as defined by RCW 9.94A.030(12); and/or

☐ there exist substantial and compelling reasons justifying an exceptional sentence; and/or

☒ sentencing within the standard range is appropriate.

☐ the defendant should undergo HIV testing in accordance with the requirements of RCW 70.24 et seq.

☒ 5. Based on the defendant's financial status set forth in Findings of Fact 9, the defendant has and/or will have the ability to pay \$ 252 monthly towards the financial obligations imposed by this Judgment and Sentence.

OR

- /XX/ 6. Based on the defendant's admission set forth in Findings of Fact 9, the defendant has and/or will have the ability to pay \$30.00 monthly towards the financial obligations imposed by this Judgment and Sentence.

OR

- / 7. Based on the defendant's financial status set forth in Findings of Fact 9, the defendant is indigent and does not and will not have the ability to pay towards the financial obligations imposed by this Judgment and Sentence.

On the basis of the foregoing Findings of Fact and Conclusions of Law, and the court having determined that no legal cause exists as to why judgment should not be pronounced, the court now makes and imposes the following:

JUDGMENT AND SENTENCE

The defendant is guilty of the crime(s) set forth in Finding of Fact 1, and is sentenced as indicated:

- /XX/ 1. FIRST TIME OFFENDER (RCW 9.94A.120(5) and RCW 9.94A.383). The imposition of sentence within the sentence range is waived, and the defendant shall be on a program of community supervision for a period of 12 month(s), and shall follow each and every one of the requirements of said program imposed by the Department of Corrections and the supervising community corrections officer(s). In addition to the requirements so imposed, and in addition to any term(s) of confinement and financial obligations otherwise specified herein, the defendant shall be subject to specific requirements as indicated:

The defendant's period of community supervision shall begin this date and shall toll during the time for which the defendant is in total or partial confinement pursuant to the sentence or a violation of the sentence.

- /XX/ The defendant shall be subject to the following crime-related prohibitions: (1) Defendant shall commit no thefts, (2) Defendant shall not handle the money or checks of an employer without the written permission of her community corrections officer and then only after she has notified the employer of this conviction.

☒ The defendant shall obey all laws of the State of Washington and comply with any conditions set by his community corrections officer.

☒ The defendant shall seek and maintain regular schooling, training, and/or employment as directed and approved by the community corrections officer.

☒ The defendant shall not leave the State of Washington without the permission of the community corrections officer, and shall be subject to whatever other geographic limitations are imposed by the community corrections officer.

☒ The defendant shall maintain his/her residence and shall not change that residence without the prior permission of the community corrections officer.

☐ The defendant shall undergo available outpatient alcohol/drug screening/treatment for a period of _____ months/year(s), and/or shall undergo available similar inpatient treatment for a period of _____ days/month(s), under the supervision and direction of the community corrections officer.

☒ The defendant shall perform _____ hours of community service. (Use only if first-offender and no jail time is imposed.)

☒ The defendant shall pay the monthly community supervision assessment required by the Department of Corrections, pursuant to RCW 9.94A.270.

☐

☒ 2. The defendant is sentenced to a term of confinement as follows: (Use for all defendants who receive a jail sentence or prison term.)

Count I 30 days/~~months~~ confinement. (_____ days/months confinement shall be converted to _____ days/months partial confinement if work release eligible and/or 30 days confinement shall be converted to 240 hours of community service.)

Any defendant who receives work release shall abide by all rules, requirements and/or conditions placed upon him/her by work release. Further, while in the work release program the defendant shall be required to comply with crime related prohibitions.

☒ 3. If community service is ordered, the defendant must complete the community service at a rate of 20 hours per month.

☒ 4. The defendant is given credit for 0 days confinement previously served.

☐ 5. The defendant shall not have any contact with the following individuals or class of individuals _____
for a period of _____ years.

(Up to the statutory maximum pursuant to RCW 9.94A.120(16)).

☐ 6. The court having determined that the crime(s) involve domestic violence pursuant to RCW 10.99.020 and RCW 10.99.050 the defendant is ordered not to have any contact with the following victim(s): _____

_____ for a period of _____ years. (Up to the statutory maximum pursuant to RCW 9.94A.120(16)).

VIOLATION OF THIS NO CONTACT ORDER IS A CRIMINAL OFFENSE UNDER CHAPTER 10.99 RCW AND WILL SUBJECT A VIOLATOR TO ARREST; ANY ASSAULT OR RECKLESS ENDANGERMENT THAT IS A VIOLATION OF THIS ORDER IS A FELONY.

Pursuant to RCW 10.99.050(5) the Superior Court Clerk shall forward a copy of this no contact order on or before the next judicial day to the following law enforcement agency:

(Agency where victim(s) reside)

Said law enforcement agency shall enter, on or before the next judicial day, the order into any computer information system used by the agency to list outstanding warrants.

The no contact order(s) in this domestic violence section do not limit or supersede any other no contact orders, including those imposed in Condition 4 in this Judgment and Sentence.

☒ 7.

SUPERVISION FOR PERSONS WITH CONFINEMENT OF TWELVE (12) MONTHS OR LESS; NON-FIRST TIME OFFENDER. Pursuant to RCW 9.94A.120(11) and RCW 9.94A.383, the defendant shall be on a program of community supervision for a period of 12 month(s), and shall follow each and every one of the requirements of said program imposed by the Department of Corrections and the supervising community corrections officer(s). In addition to the requirements so imposed, and in addition to any term(s) of confinement and financial obligations otherwise specified herein, the defendant shall be subject to specific requirements as indicated:

The defendant's period of community supervision shall begin this date and shall toll during the time for which the defendant is in total or partial confinement pursuant to the sentence or a violation of the sentence.

☒ The defendant shall be subject to the following crime-related prohibitions: no drugs

☒ The defendant shall comply with any conditions set by his community corrections officer.

☒ The defendant shall not leave the State of Washington without the permission of the community corrections officer, and shall be subject to whatever other geographic limitations are imposed by the community corrections officer.

☒ The defendant shall immediately notify the community corrections officer of any change in his/her address and/or employment.

☒ The defendant shall pay the monthly community supervision assessment required by the Department of Corrections, pursuant to RCW 9.94A.270.

☐ _____

☐ 8.

COMMUNITY PLACEMENT SUPERVISION OF (TWELVE (12) MONTHS) (TWO YEARS, OR UP TO THE PERIOD OF EARNED EARLY RELEASE). Pursuant to RCW 9.94A.120(8), the defendant shall be on a program of community placement supervision for a period of (twelve (12) months) (two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150(1) and(2) whichever is longer), and shall follow each and

every one of the requirements of said program imposed as follows:

The defendant shall report to and be available for contact with the assigned community corrections officer as directed.

The defendant shall work at a department of corrections approved education, employment, and/or community service.

The defendant shall not use, possess, or allowed to be used on his/her premises, any controlled substance unless he/she has a valid prescription authorizing such use or possession.

The defendant shall pay community placement fees as determined by the Department of Corrections.

In addition to the requirements imposed above, the defendant shall be subject to specific requirements as indicated:

- ☐ Remain within/outside the borders of _____ unless he obtains written permission from his community corrections officer to leave/enter the above described area;
- ☐ Shall not have direct or indirect contact with the victim of the crime;
- ☐ Shall not have direct or indirect contact with _____ (specify class of individuals); without the approval of _____.
- ☐ Participate in crime related treatment or counseling services;
- ☐ Possess or peruse no pornography as defined by his/her treatment official;
- ☐ Submit to polygraph and plethysmograph examinations as required by his treating therapist or community corrections officer, at his own expense.
- ☐ Abstain from the use of intoxicants;
- ☐ Obtain the prior approval of the Department of Corrections regarding the living arrangements if defendant is a sex offender;

☐ Shall be subject to the following crime related prohibitions: _____

☐ _____

XX 9. The defendant is hereby ordered to report to the Department of Corrections to arrange for the payment of his/her financial obligations. The defendant is ordered to advise the Department of Corrections of his/her current address. In addition, the defendant is required to report any change of address to the Department of Corrections for a ten (10) year period or until his/her financial obligations have been satisfied.

The defendant shall further pay by cash, money order or certified check to the Clerk of the Superior Court at 614 Division Street, MS 34, Port Orchard, Washington 98366-4676, as indicated:

☐ \$70.00 minimum to the Crime Victim's Compensation Fund if the crime was committed before July 23, 1989;

XX \$100.00 minimum to the Crime Victim's Compensation Fund if the crime was committed after July 23, 1989;

XX \$118⁵⁰ court costs (\$70.00 filing fee; \$48⁵⁰ subpoena fees; \$_____ witness fees; \$_____ summons service fees)

XX \$877.00 reimbursement for court appointed attorney fees;

☐ \$_____ contribution to the _____ Special Investigations Unit Fund;

☐ \$_____ contribution to the Kitsap County Child Advocacy Center;

☐ \$_____ contribution to the Kitsap County Expert Witness Fund (Kitsap County Ordinance 139.1991)

☐ \$_____ contribution to the Kitsap County
Coroner's Fund;

☐ \$_____ fine;

☐ \$_____ reimbursement for extradition costs
payable to: _____;

☒ Other: Parties agree restitution has been made in
full. _____;

☐ The defendant shall make restitution

☐ As determined by separate order.

☐ In the amount of \$_____, payable by cash,
money order or certified check through the Clerk
of the Court at 614 Division, MS34, Port
Orchard, Washington 98366-4676 to be disbursed
to: _____.

The restitution amount shall bear interest of twelve
percent (12%) per annum on the declining balance from the
date of the commission of the crime, to-wit: the ____ day
of _____, 19____.

The defendant shall pay any and all costs related to
his/her participation in the work release program in
accordance with a payment schedule set up by work release.

The defendant shall make monthly payments on his financial
obligations of no less than ~~\$30.00~~ ^{25.00} per month, payable
on the 1st day of each month, commencing on the 1st day
of July, 1992.

- ☐ 10. The court having determined that the defendant has the
present means to pay for the cost of incarceration, the
defendant shall pay \$50.00 per day of incarceration.
However, payment of other court-ordered financial
obligations, including all legal financial obligations and
costs of supervision shall take precedence over payments
for incarceration. All funds recovered from the defendant
for the cost of incarceration in the county jail shall be
remitted to the county, and the costs of incarceration in
prison shall be remitted to the Department of Corrections.

- ☐ 11. Pursuant to RCW 9.94A.145, the court orders that a notice of a payroll deduction is to be immediately issued for the defendant and is to be arranged by the Department of Corrections.

The court retains jurisdiction over the defendant for a period of ten (10) years concerning the payment of financial obligations. Pursuant to RCW 9.94A.145, a notice of a payroll deduction for the defendant may be issued or other income-withholding action may be taken by the Department of Corrections without further notice to the defendant. Such action may be taken only if defendant's monthly court-ordered legal financial obligation payment is not paid when due, and an amount equal or greater than the amount payable for one month is owed.

- ☐ 12. Pursuant to RCW 43.43.754, a blood sample shall be drawn from this defendant for the purposes of DNA identification analysis. If defendant is incarcerated at the Kitsap County Correction Center, the blood draw will be performed by Kitsap County Corrections Center personnel. If defendant is incarcerated at a State Institution, the blood draw will occur at the respective institution. If defendant is not or will not be presently incarcerated, blood draw shall be completed within 30 days of this date.
- ☐ 13. Pursuant to RCW 46.52.100, the Department of Licensing shall be informed of the conviction for this offense in which a motor vehicle was used.
- ☐ 14. Defendant shall undergo HIV testing on/before the ____ day of _____, 19____. Testing shall be conducted by the Bremerton-Kitsap County Health Department in accordance with the requirements of RCW 70.24 et seq.
- ☐ 15. I understand and am on notice that I am a sex offender or a person convicted of a felony with a finding of sexual motivation under RCW 9.94A.127, and I will be required to comply with the registration requirements set forth under RCW 9A.44.130. A sex offense is any violation of Chapter 9A.44 RCW or RCW 9A.64.020 or RCW 9.68A.090 or, under Chapter 9A.28 RCW, a criminal attempt, criminal solicitation or criminal conspiracy to commit such crime. The registration requirements which must be complied with are as follows:

(1) The defendant shall register with the county sheriff for the county of his or her residence by providing the county sheriff with the following information:

- (a) name;
- (b) address;
- (c) place of employment;
- (d) crime for which convicted;
- (e) date and place of conviction;
- (f) aliases used; and
- (g) social security number.

(2) The defendant shall register within the following deadlines:

(a) The defendant released from custody must register within 24 hours of his/her release. The defendant who is not sentenced to a term of confinement must register immediately upon sentencing.

(b) If the defendant establishes residency outside of the State of Washington, he must register within thirty (30) days of re-establishing residence in the State of Washington.

(c) If the defendant changes residence within the same county, the defendant must send written notice of the change of address to the county sheriff within ten (10) days of establishing the new residence. If the defendant moves to a new county, the defendant must register with the county sheriff in the new county within ten (10) days of establishing a new residence. The defendant must also send written notice within ten (10) days of the change of address in the new county to the county sheriff with whom the defendant last registered.

It is a crime to knowingly fail to register in accordance with the above registration requirements.

☐ 16. Other: _____

☐ 17. Defendant shall forfeit any and all interest he/she has in the following:

☐ firearms: _____
_____ pursuant to RCW 9.41.098; and/or

☐ materials, products, equipment, vehicles, money, etc:

pursuant to RCW 69.50.505.

☐ (other) _____

- ☐ 18. In accordance with the multiple offender provisions of RCW 9.94A.400, the terms of confinement shall run concurrently/consecutively.

It is further ORDERED that any bail, bond and/or conditions of personal recognizance are hereby exonerated.

June
day of *May*, 1992. DONE IN OPEN COURT, in the presence of the defendant this *10*

[Signature]
J U D G E

FINGERPRINTS



Race: CAUCASIAN
Sex: FEMALE
DOB: 12/03/71
Address: 6820 Stupede, Brunston W
Phone No.: 694-6051
DL Number: _____
Vehicle Reg No.: _____
SID Number: UNAVAILABLE AT THIS TIME
FBI Number: UNAVAILABLE AT THIS TIME

DATED this ____ day of May, 1992.

FINGERPRINTS ATTESTED BY:

ROBERT L. FREUDENSTEIN

CLERK

By: Susan Whitney

DEPUTY CLERK

PRESENTED BY:

Warren K. Sharpe
WARREN K. SHARPE
Deputy Prosecuting Attorney
WSBA No. 4461

APPROVED FOR ENTRY:

ROGER HUNKO
Attorney for Defendant
WSBA No. 9295

TO: _____

SUBJECT: Mandatory HIV Testing and Counseling

You have been found guilty by (plea) (court verdict) (jury verdict) of the offense of _____.
RCW 70.24.340 mandates HIV (Human Immunodeficiency Virus) pretest counseling, testing and post-test counseling of all persons found guilty of this offense. Your judgment and sentence requires such counseling and testing. The following procedures should be followed in order to comply with your judgment and sentence.

- (1) You must contact the Bremerton-Kitsap County Health Department (478-5235, Monday thru Friday, 8:00 a.m. to 4:00 p.m.) to schedule an appointment for HIV counseling and testing.
- (2) Thereafter, you are to schedule a follow-up appointment for post-test counseling as advised by the Health Department Practitioner. (Test results are normally received within ten (10) to twelve (12) days after testing).
- (3) HIV pretest counseling, testing and post-test counseling shall be completed on or before the _____ day of _____, 19____.
- (4) If incarcerated, you should contact the correctional facility's Health Care staff to make appropriate arrangement for HIV counseling and testing.
- (5) If you have any questions regarding testing or counseling, you should contact the Bremerton-Kitsap County Health Department AIDS or STD Program (478-5235).

Counseling and testing for HIV is a mandatory part of your judgment and sentence. Failure to carry out the above procedures is a violation of your judgment and sentence.



Superior Court of Washington
County of Kitsap

FILED
KITSAP COUNTY CLERK

92 MAY 12 PM 3:54

STATE OF WASHINGTON,

Plaintiff,

vs.

GENNY L. HEATH

Defendant.

NO. 92-1-00213-1 FREUDENSTEIN

STATEMENT OF DEFENDANT ON
PLEA OF GUILTY BY Deputy DEPUTY.

(STTDFG)

1. My true name is: GENNY L. HEATH
2. My age is: 20 12-3-71
3. I went through the 12th grade.
4. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT:
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me. My lawyer's name is ROGER A. HUNTER.
 - (b) I am charged with the crime of 2nd Theft.
The elements of this crime are SEE INFORMATION
5. I HAVE BEEN INFORMED AND FULLY UNDERSTAND THAT I HAVE THE FOLLOWING IMPORTANT RIGHTS, AND I GIVE THEM ALL UP BY PLEADING GUILTY:
 - (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
 - (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
 - (c) The right at trial to hear and question the witnesses who testify against me;
 - (d) The right at trial to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
 - (e) I am presumed innocent until the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
 - (f) The right to appeal a determination of guilt after a trial.
6. IN CONSIDERING THE CONSEQUENCES OF MY GUILTY PLEA, I UNDERSTAND THAT:
 - (a) The crime with which I am charged carries a maximum sentence of 5 years imprisonment and a \$ 10,000 fine. The standard sentence range is from 0 day months to 60 days months confinement, based on the prosecuting attorney's understanding of my criminal history.
 - (b) The standard sentence range is based on the crime charged and my criminal history. Criminal history includes prior convictions, whether in this state, in federal court, or elsewhere. Criminal history always includes juvenile convictions for sex offenses. Criminal history also includes convictions in juvenile court for other felonies or serious traffic offenses that were committed

when I was 15 years of age or older. Juvenile convictions, except those for class A felonies or sex offenses, count only if I was less than 23 years old when I committed the crime to which I am now pleading guilty.

- (c) The prosecuting attorney's statement of my criminal history is attached to this agreement. Unless I have attached a different statement, I agree that the prosecuting attorney's statement is correct and complete. If I have attached my own statement, I assert that it is correct and complete. If I am convicted of any additional crimes between now and the time I am sentenced, I am obligated to tell the sentencing judge about those convictions.
- (d) If I am convicted of any new crimes before sentencing, or if any additional criminal history is discovered, both the standard sentence range and the prosecuting attorney's recommendation may increase. Even so, my plea of guilty to this charge is binding on me. I cannot change my mind if additional criminal history is discovered even though the standard sentencing range and the prosecuting attorney's recommendation increase.
- (e) In addition to sentencing me to confinement for the standard range, the judge will order me to pay \$ 100.00 as a victim's compensation fund assessment. If this crime resulted in injury to any person or damage to or loss of property, the judge will order me to make restitution, unless extraordinary circumstances exist which make restitution inappropriate. The judge may also order that I pay a fine, court costs, and attorney fees. Furthermore, the judge may place me on community supervision, impose restrictions on my activities, and order me to perform community service.
- (f) The prosecuting attorney will make the following recommendation to the judge:
SURE PLEA GUILTY AGREEEMENT
- (g) The judge does not have to follow anyone's recommendation as to sentence. The judge must impose a sentence within the standard range unless the judge finds substantial and compelling reasons not to do so. If the judge goes outside the standard range, either I or the State can appeal that sentence. If the sentence is within the standard range, no one can appeal the sentence.
- (h) The crime of AGGRAVATED ASSAULT has a mandatory minimum sentence of at least 5 years of total confinement. The law does not allow any reduction of this sentence. [If applicable, this paragraph should be initialed by the defendant and the judge.]
- (i) The sentence imposed on counts 1 & 2 will run consecutively unless the judge finds substantial and compelling reasons to do otherwise. [If applicable, this paragraph should be initialed by the defendant and the judge.]
- (j) In addition to confinement, the judge will sentence me to community placement for at least 1 year. During the period of community placement, I will be under the supervision of the Department of Corrections, and I will have restrictions placed on my activities. [If applicable, this paragraph should be initialed by the defendant and the judge.]
- (k) OK
Jan The judge may sentence me as a first time offender instead of giving a sentence within the standard range if I qualify under RCW 9.94A.030(20). This sentence could include as much as 90 days' confinement plus all of the conditions described in paragraph (e). Additionally, the judge could require me to undergo treatment, to devote time to a specific occupation, and to pursue a prescribed course of study or occupational training. [If applicable, this paragraph should be initialed by the defendant and the judge.]

- (l) This plea of guilty will result in revocation of my privilege to drive. If I have a driver's license, I must now surrender it to the judge. [If applicable, this paragraph should be initialed by the defendant and the judge.]
- (m) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (AIDS) virus. [If applicable, this paragraph should be initialed by the defendant and the judge.]
- (n) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.
- (o) If this crime involves a sex offense or a violent offense, I will be required to provide a sample of my blood for purposes of DNA identification analysis. [If applicable, this paragraph should be initialed by the defendant and the judge.]
- (p) If this crime involves a sex offense, I will be required to register with the sheriff of the county where I reside, and I must do this within 24 hours after I am released from confinement. If I am not required to serve a term of confinement immediately upon sentencing, I must report to the county sheriff to register immediately after the sentencing hearing. If I do not now reside in Washington, I must register within 30 days after I establish residence in this state. If I subsequently move within the county, I must notify the sheriff within 10 days after I establish my new residence. If I move to a new county, I must, within 10 days, notify the sheriffs of both counties. [If applicable, this paragraph should be initialed by the defendant and the judge.]

7. I plead GUILTY to the crime of 2^o Theft as charged in the information. I have received a copy of that information.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. The judge has asked me to state briefly in my own words what I did that makes me guilty of this crime. This is my statement:
x took rent money for my use
w/o authority. more than \$250
12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Gennery Heath
Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

W. K. Shaw
Prosecuting Attorney

Defendant's Lawyer

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that [check appropriate box]:

- ☒ (a) The defendant had previously read the entire statement above and that the defendant understood it in full; or
- ☐ (b) The defendant's lawyer had previously read to him or her the entire statement above and that the defendant understood it in full; or
- ☐ * (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated this 12th day of May, 19 92.

James D. Rogers
Judge

*I am fluent in the _____ language and I have translated this entire document for the defendant from English into that language. The defendant has acknowledged his or her understanding of both the translation and the subject matter of this document. I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this _____ day of _____, 19 _____.

Interpreter

cc:	Original	-	Court File
	Yellow	-	Defendant
	Pink	-	Defense Attorney
	Goldenrod	-	Prosecuting Attorney

FILED
KITSAP COUNTY CLERK

92 MAR 17 PM 4:37

ROBERT L. FREUDENSTEIN

BY Bu DEPUT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KITSAP COUNTY

STATE OF WASHINGTON,

Plaintiff,

NO. 92 1 00213 1

-vs-

^{e g m}
GENNY L. HEATH,

I N F O R M A T I O N

Defendant.

I, WARREN K. SHARPE, Deputy Prosecuting Attorney in and for the County of Kitsap, State of Washington, come now in the name of and by the authority of the State of Washington, and by this INFORMATION do accuse ^{e g m} GENNY L. HEATH of the crime of SECOND DEGREE THEFT committed as follows:

^{e g m}
She, the said GENNY L. HEATH, in the County of Kitsap, State of Washington, on or about or during the period between December 12, 1991, and December 31, 1991, did wrongfully obtain or exert unauthorized control over and/or by color or aid of deception did obtain control over more than two hundred fifty dollars (\$250.00) in lawful money of the United States of America belonging to another, to wit: \$414.00 in rent payments made by Barbara Brigham belonging to Michael Heath, Sr., or another, with intent to deprive said person of said property or services; contrary to the Revised Code of Washington 9A.56.020(1) and RCW 9A.56.040(1).
(Maximum penalty -- five (5) years imprisonment and/or a \$10,000 fine pursuant to RCW 9A.56.040(2) and RCW 9A.20.021(1)(c), plus restitution and assessments.)

INFORMATION -- 1

C. DANNY CLEM
Prosecuting Attorney
Kitsap County
614 Division Street MS-35
Port Orchard, WA 98366-4676
(206) 876-7174
Fax No. (206) 895-4949

1 CONTRARY to the form, force and effect of the statute in such
2 cases made and provided, against the peace and dignity of the State of
3 Washington.

4 C. DANNY CLEM
Prosecuting Attorney

5
6 Warren K. Sharpe
7 WARREN K. SHARPE, WSBA No. 4461
Deputy Prosecuting Attorney

8 STATE OF WASHINGTON)
9 : SS
County of Kitsap)

10 WARREN K. SHARPE, being first duly sworn, on oath deposes and
11 says:

12 That he is the duly appointed, qualified and acting Deputy
13 Prosecuting Attorney in and for said County and State; that he has read
14 the foregoing INFORMATION, knows the contents thereof and believes the
15 same to be true.

16
17 Warren K. Sharpe
18 WARREN K. SHARPE, WSBA No. 4461
Deputy Prosecuting Attorney

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26 INFORMATION -- 2

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1 SUBSCRIBED AND SWORN to before me this 17 day of March,
2 1992.

3 ROBERT L. FREUDENSTEIN
4 County Clerk and ex-Officio
5 Clerk of the Superior Court

6 By James V. Wright
7 Deputy

8 BAIL: \$ _____
9 UCR-CODE: 02556
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26 INFORMATION -- 3

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JSM047 DISPLAY DOCKET KITSAP SUPERIOR 04-22-08 12:50 1 OF 1
JUDGMENT#: 92-9-01294-1 CASE#: 92-1-00213-1
TITLE: STATE VS GENNEY L HEATH
JUDGMENT TYPE: CRI CRIMINAL
DATE SIGNED: 06 10 1992 SIGNED BY: JUDGE KAMPS
DATE FILED : 06 10 1992 EFFECTIVE DATE: 06 10 1992 JUDGMENTS THIS CASE: 1
JUDGMENT STATUS: SAT DATE: 07 23 1999 <-----FULLY SATISFIED----->
NOTE:

DATE	CODE	DESCRIPTION	AMOUNT
06 10 1992	JS	JUDGMENT AND SENTENCE	
		DEFENDANT TO PAY THE FOLLOWING:	
		CRIME VICTIM'S COMPENSATION FUND	100.00
		COURT COSTS	
		FILING FEE	70.00
		SUBPOENA FEES	48.50
		ATTORNEY FEES	877.00
02 14 1995	ARCR	ACCOUNT(S) RECEIVABLE CREATED	
03 09 1999	ARCL	ACCOUNT(S) RECEIVABLE CLOSED	
07 23 1999	NOTE	SATISFIED PURSUANT TO RCW 4.56.100	

?	F1=Help	Enter=Process	F7=Bwd	F8=Fwd	PA1=Cancel
4-⑥	A Sess-1	206.194.129.5		FTCP2313	DOC» 24/4

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LORRAINE KIRTLEY,
Plaintiff-Appellant,

v.

CAROL H. RAINEY, and the marital
community; ROY RAINEY, and the
marital community; THOMAS
ADAMS, and the marital
community; JANE DOE ADAMS, and
the marital community; GENNEY
BAKER, and the marital
community; JASON BAKER, and the
marital community; DIANE FROST,
a single woman,
Defendants-Appellees.

No. 01-35740
D.C. No.
CV-00-05765-FDB
OPINION

Appeal from the United States District Court
for the Western District of Washington
Franklin D. Burgess, District Judge, Presiding

Submitted August 7, 2002*
Seattle, Washington
Submission Withdrawn October 2, 2002
Resubmitted March 6, 2003

Filed April 22, 2003

Before: John T. Noonan, Michael Daly Hawkins, and
Ronald M. Gould, Circuit Judges.

*The panel finds this case appropriate for submission without oral argument pursuant to Fed. R. App. P. 34(a)(2).

Opinion by Judge Hawkins

COUNSEL

Marilyn R. Gunther, Kent, Washington, for the appellant.

Clayton E. Longacre, Longacre and Adams Law Office, Port Orchard, Washington, for appellee P. Thomas Adams.

Kathleen Q. Lappi, The Rife Law Firm, Silverdale, Washington, for appellees Genney and Jason Baker.

Gregory B. Curwen and Joseph A. Hamell, Gierke, Curwen, Metzler & Erie, P.S., Tacoma, Washington, for appellee Diane Frost.

OPINION

HAWKINS, Circuit Judge:

We must decide whether a state-appointed guardian ad litem (“guardian”) acts under color of state law for purposes of 42 U.S.C. § 1983. Applying the several fact-sensitive tests recognized by this Court, we conclude that the Guardian’s function does not qualify as state action and therefore affirm the district court.

BACKGROUND

This appeal arises from events related to a 1998 child custody modification action in Kistap County, Washington Superior Court. From 1993 to 1998, Lorraine Kirtley (“Kirtley”) had been the primary caregiver and legal custodian of her granddaughter, [REDACTED] (“[REDACTED]”). The state proceeding resulted in the transfer of custody of [REDACTED] to Genney Baker, Kirtley’s daughter and [REDACTED] mother. Kirtley responded by filing suit in federal court, raising claims under 42 U.S.C. §§ 1983 & 1985, and Washington tort law.

Kirtley’s complaint alleges she was the victim of a conspiracy to deprive her of custody over her granddaughter. Kirtley named as defendants Thomas Adams (her attorney in the custody action), Diane Frost (a counselor she had hired for [REDACTED]), Carol Rainey (the court-appointed guardian “Guardian Rainey”), Genney and Jason Baker (her daughter and son-in-law), and Thomas Stowell (counsel for Genney and Jason Baker). Kirtley alleged that during the custody proceeding, Frost called a secret meeting among the defendants to execute a plan to enter false evidence, to cast Kirtley in a false light, and to facilitate the transfer of [REDACTED] to Genney Baker. She also alleges that her lawyer failed to represent her interests adequately, that Guardian Rainey failed to investigate Kirtley’s ability to care for her granddaughter, that her daughter joined in providing false statements, and that her daughter’s

lawyer used the false information to secure an ex parte order to interrupt Kirtley's guardianship, all in violation of Kirtley's constitutionally protected rights.¹

The district court ordered Kirtley to demonstrate state action by any or all of the defendants, or risk dismissal of the § 1983 claim as to all defendants. Unpersuaded by Kirtley's response that Guardian Rainey should be considered an agent acting under color of state law, the district court dismissed the § 1983 claim. The court also dismissed Kirtley's § 1985 claim and declined to exercise jurisdiction over Kirtley's remaining state law claims. On appeal, Kirtley's briefs addressed only the district court's § 1983 determination, so we consider Kirtley's § 1985 claim waived.

STANDARD OF REVIEW

Dismissal under Rule 12(b)(6) for failure to state a claim is reviewed de novo. *Zimmerman v. City of Oakland*, 255 F.3d 734, 737 (9th Cir. 2001).

ANALYSIS

[1] A § 1983 plaintiff must demonstrate a deprivation of a right secured by the Constitution or laws of the United States, and that the defendant acted under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988). While generally not applicable to private parties, a § 1983 action can lie against a private party when "he is a willful participant in joint action with the State or its agents." *Dennis v. Sparks*, 449 U.S. 24, 27 (1980). This is precisely the type of conspiracy alleged by Kirtley in the present action.

¹Kirtley alleged that Guardian Rainey, in conjunction with the other defendants, acted to deprive Kirtley of her due process rights and fundamental right to family integrity under the Constitution. The posture of this case presents no need for us to address whether such rights were deprived.

[2] The question we face is whether Guardian Rainey was acting under color of state law. Kirtley argues that a guardian essentially functions as an officer of the court and therefore acts under color of state law. "The ultimate issue in determining whether a person is subject to suit under § 1983 is the same question posed in cases arising under the Fourteenth Amendment: is the alleged infringement of federal rights fairly attributable to the [government]?" *Sutton v. Providence St. Joseph Med. Ctr.*, 192 F.3d 826, 835 (9th Cir. 1999) (quoting *Rendell-Baker v. Kohn*, 457 U.S. 830, 838 (1982)).

[3] "What is fairly attributable [as state action] is a matter of normative judgment, and the criteria lack rigid simplicity. . . . [N]o one fact can function as a necessary condition across the board . . . nor is any set of circumstances absolutely sufficient, for there may be some countervailing reason against attributing activity to the government." *Brentwood Acad. v. Tennessee Secondary Sch. Athletic Ass'n*, 531 U.S. 288, 295-96 (2001). Nonetheless, we recognize at least four different criteria, or tests, used to identify state action: "(1) public function; (2) joint action; (3) governmental compulsion or coercion; and (4) governmental nexus." *Sutton*, 192 F.3d at 835-36; see also *Lee v. Katz*, 276 F.3d 550, 554 (9th Cir. 2002). Satisfaction of any one test is sufficient to find state action, so long as no countervailing factor exists. *Lee*, 276 F.3d at 554.

We turn first to the role of a guardian under Washington state law. The statutes in effect at the time of the custody action at issue provide in relevant part:

(1)(a) The court may appoint a guardian ad litem to represent the interests of a minor or dependent child when the court believes the appointment of a guardian ad litem is necessary to protect the best interests of the child in any proceeding under this chapter

(b) Unless otherwise ordered, the guardian ad litem's role is to investigate and report factual information to the court concerning parenting arrangements for the child, and to represent the child's best interests The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation

Wash. Rev. Code § 26.12.175 (1996). Our task is to examine the guardian's role in light of the tests previously applied by this Court.

A. *Public Function*

[4] "Under the public function test, when private individuals or groups are endowed by the State with powers or functions governmental in nature, they become agencies or instrumentalities of the State and subject to its constitutional limitations." *Lee*, 276 F.3d at 554-55 (internal quotation marks omitted). The public function test is satisfied only on a showing that the function at issue is "both traditionally and exclusively governmental." *Id.* at 555. The guardian seems to occupy two primary roles under the statutory scheme: an advocate for the best interests of the child subject to the custody dispute, and an independent source of information for the court regarding the circumstances of the custody dispute. Neither function has ever been held to be a traditional or exclusive governmental function under this test, which appears to have no application here.

B. *Joint Action*

[5] Under the joint action test, we consider whether "the state has so far insinuated itself into a position of interdependence with the private entity that it must be recognized as a joint participant in the challenged activity. This occurs when the state knowingly accepts the benefits derived from unconstitutional behavior." *Parks Sch. of Bus., Inc. v. Symington*, 51

F.3d 1480, 1486 (9th Cir. 1995) (internal citations, brackets and quotation marks omitted). Although a guardian is appointed, compensated, subject to qualification, and regulated by the state, the above-quoted statute clearly indicates that the intended benefits of the guardian "flow directly to" the child, in whose interests the guardian must act. *See id.* (no joint action exists where "benefits of [state-law designated loan guarantor] flow directly to students, not to the state itself," even while "in a broad sense" conferring public benefits). As the district court recognized, and as appellees argue, the role of the guardian as an advocate is analogous to the role of a court-appointed public defender.

[6] The Supreme Court has held that a public defender does not act under color of state law when performing pure advocacy functions, *Polk County v. Dodson*, 454 U.S. 312, 325 (1981), and the Tenth Circuit has relied on the analogy between public defenders and guardians to hold explicitly that guardians do not act under color of state law for § 1983 purposes. *Meeker v. Kercher*, 782 F.2d 153, 155 (10th Cir. 1986) (no obligation or duty to the state, but undivided loyalty to the minor). *Meeker* goes on to observe that even where the judgment of the guardian exercised on behalf of the minor corresponds with the state interest in child care, it is the independence of the guardian that insulates the role from § 1983 liability. *Id.*² The significance of this independence is underscored by the difficulty we have in seeing how any unconstitutional act by the guardian would possibly provide

²*See also Snyder v. Talbot*, 836 F. Supp. 19, 24 (D. Me. 1993) (guardian appointed under Maine law, which allowed appointment for the limited purpose of representing the interest of a minor, not a state actor where guardian exercised independent judgment and "did not exercise custodial or supervisory rights over the child or engage in any other arrangements that could have been viewed as carrying out the state's mandate"); *Malachowski v. City of Keene*, 787 F.2d 704, 710 (1st Cir. 1986) (court-appointed attorney for a minor in delinquency proceedings, who had earlier acted as minor's guardian in abuse and neglect proceedings, does not act under color of state law).

benefits to the state. Taken together, they indicate that the joint action test is not satisfied with respect to the guardian's functions as an advocate.

Of course, the guardian is not simply empowered under the Washington statute to represent the best interests of the child, but also to "investigate and report factual information to the court concerning parenting arrangements for the child." Wash. Rev. Code § 26.12.175(1)(b). Kirtley's briefs seize on this aspect of the guardian's role to argue that the guardian is simply an extension of the court. While it is true that the role of the judge appointing the guardian is that of factfinder, and that the guardian assists in factfinding through acts of investigation and reporting, Kirtley does not demonstrate that the guardian fails to perform *independently*. Recent amendments to the guardian appointment statute make explicit what was earlier implied: Guardian investigations are to be conducted independently and the court will merely use the information as one data point among many in rendering custody decisions.³ See Wash. Rev. Code § 26.12.175(1)(b). An additional amendment prohibiting *ex parte* communication between

³The revised statute reads:

Unless otherwise ordered, the guardian ad litem's role is to investigate and report factual information to the court concerning parenting arrangements for the child, and to represent the child's best interests. Guardians ad litem and investigators under this title may make recommendations based upon an *independent* investigation regarding the best interests of the child, which the court *may* consider and weigh in conjunction with the recommendations of all of the parties. If a child expresses a preference regarding the parenting plan, the guardian ad litem shall report the preferences to the court, together with the facts relative to whether any preferences are being expressed voluntarily and the degree of the child's understanding. The court may require the guardian ad litem to provide periodic reports to the parties regarding the status of his or her investigation. The guardian ad litem shall file his or her report at least sixty days prior to trial.

(Emphasis added).

guardians and the court, Wash. Rev. Code § 26.12.187 (2000), further shows that the statutory scheme intends to create a position independent of judicial influence or power, even if a guardian may in a general sense serve the judicial function of right decisionmaking. *See Parks*, 51 F.3d at 1486.

C. *Compulsion Test*

[7] The compulsion test considers whether the coercive influence or “significant encouragement” of the state effectively converts a private action into a government action. *See generally Sutton*, 192 F.3d at 836-37 (canvassing applications of the compulsion test involving the actions of private parties required under law or regulation). Again, the guardian functions independently of the court, exercising advocacy obligations that are, by law, to the child, not the court. Thus it makes no sense to say that the guardian is under such government compulsion that she acts on behalf of the state. And again, although the guardian’s investigatory and reporting function is performed pursuant to law, the amendments discussed above clarify that this role is independent of court edict or oversight. In this respect, the guardian, although a reporter of facts, functions as a witness.

D. *Nexus*

[8] Arguably the most vague of the four approaches, the nexus test asks whether “there is a such a close nexus between the State and the challenged action that the seemingly private behavior may be fairly treated as that of the State itself.” *Brentwood*, 531 U.S. at 295 (internal quotations omitted). Again, there are significant links between the position of the guardian and the government. As Kirtley observes, the guardian is appointed by a state actor, is paid by the state, and is subject to regulation by state law. But there the nexus ends. Where the guardian reports to the court, she reports as an independent investigator. Where the guardian acts as an advocate of the child, she occupies a role distinct from the court

before which she advocates. Although it is conceivable that a more expansive type of guardianship role could satisfy the nexus test, see *Thomas S. v. Morrow*, 781 F.2d 367, 377-78 (4th Cir. 1986) (state-appointed guardian was state actor where guardian had custody of ward and guardian acted together with or obtained significant aid from state officials), the actions of the guardian at issue here do not appear to be "fairly attributable to the state." *Sutton*, 192 F.3d at 836.⁴

E. *Countervailing Factors*

The Supreme Court, even in its most recent pronouncement on state action, does not clarify whether and when one test or another should be applied to a particular fact situation. *Brentwood* challenges lower courts by stating that even facts that, standing alone, would require a finding of state action "may be outweighed in the name of some value at odds with finding public accountability in the circumstances." *Brentwood*, 531 U.S. at 303. As an example of one such countervailing value, the Court cites to *Polk County*, in which it took exception from the general rule that full-time public employment is conclusive of state action in the case of public defenders. "[W]hen the employee is doing a defense lawyer's primary job[,] then the public defender does 'not act on behalf of the State; he is the State's adversary.'" *Id.* (quoting *Polk County*, 454 U.S. at 323 n.13).

Obviously, a guardian is not the adversary of the state in the same respect that a public defender is an adversary of the

⁴Kirtley attempts to frame this nexus analysis with reference to whether a guardian should enjoy judicial immunity, inviting the inference that immunity signals state action. Appellee and the court below correctly observe that the issues are legally distinct. The analysis relevant to this case is whether the guardian's role in this case constituted state action under the tests of this circuit, not whether the guardian enjoys quasi-judicial immunity under Washington law. At best, the absence or presence of immunity is a factor to be considered in applying the relevant state action tests.

criminal prosecutor. However, *Brentwood*'s citation to *Polk County* in recognition of countervailing values is relevant here not because the public defender is an adversary of the state, but because, like the guardian, the defender is independent of the state.⁵

[9] Although we have recognized several tests to determine where state action lies, the central question remains whether "the alleged infringement of federal rights [is] fairly attributable to the government." *Sutton*, 192 F.3d at 835 (internal quotations omitted). Even if Guardian Rainey committed the fraudulent or conspiratorial acts of which she is accused, the actions simply are not fairly attributable to the state.

CONCLUSION

[10] Under the criteria recognized in this court's recent decisions in *Lee* and *Sutton*, the function of the guardian, as articulated in the Washington statute, does not satisfy the state action test. In so concluding, we join our sister circuit. *See Meeker*, 782 F.2d at 155.

AFFIRMED.

⁵We note that much of our discussion focuses on the statutory definition of a guardian. The Supreme Court in *Brentwood* did recognize that characterizations in statutory law, or "the failure of the law to acknowledge an entity's inseparability from recognized government officials or agencies," should not reflexively lead to a finding of no state action where the facts suggest otherwise. *Brentwood*, 531 U.S. at 296. Here, Kirtley has done little, either in her complaint or in appellate briefing, to provide factual details regarding the guardian's function in this particular case—hence, our focus on the statutory definition of a guardian. We leave for another day consideration of whether any particular facts can be demonstrated that would fit the *Brentwood* exception.


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2 Heath, Genney Plaintiff	Kitsap Superior	91-2-01755-9	08-07-1991	Civil TORT MTR VEH
3 Heath, Genney L Petitioner	Kitsap Superior	93-2-01695-8	08-05-1993	Civil DOM VIOLENCE
4 Heath, Genney L Respondent	Kitsap Superior	92-3-01805-1	12-14-1992	Domestic CUSTODY
5 Heath, Genney L Petitioner	Kitsap Superior	92-3-01806-9	12-14-1992	Domestic DIS W/CHILD
6 Heath, Genney L Judgment Debtor	Kitsap Superior	92-9-01294-1	06-10-1992	Judgment CRIMINAL
7 Heath, Genney L Defendant	Kitsap Superior	92-1-00213-1	03-17-1992	Criminal
8 Heath, Genney L Defendant	Kitsap District	97-000930	03-25-1997	Civil Other
9 Heath, Genney L Petitioner	Kitsap Superior	91-2-01461-4	06-27-1991	Civil DOM VIOLENCE

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